

Local Court Rules

31<sup>st</sup> Judicial Circuit

Circuit Court of

Greene County

Effective date: September 9, 2009

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# Local Court Rules

## ADMINISTRATION

### 1. Divisions of Court.

#### 1.1 The 31st Judicial Circuit consists of the following Divisions:

Division 1 - Circuit Judge Michael J. Cordonnier  
Division 2 - Circuit Judge David Jones  
Division 3 - Circuit Judge Dan Conklin  
Division 4 - Circuit Judge Thomas E. Mountjoy  
Division 5 - Circuit Judge Calvin Holden  
Division 21 - Associate Circuit Judge Dan Imhof  
Division 22 - Associate Circuit Judge Jason Brown  
Division 23 - Associate Circuit Judge Mark E. Fitzsimmons  
Division 24 - Associate Circuit Judge Mark Powell  
Division 25 - Visiting Judge Division  
Family Court 1 - Commissioner Sue Chrisman  
Family Court 2 - Commissioner Scott Tinsley  
Family Court 3 - Commissioner Jeff Marquardt  
Family Court 4 - Commissioner John P. Lukachick  
Probate Division - Commissioner Carol Aiken  
Drug Court - Commissioner Peggy Davis

#### 1.2 Probate Division

The Presiding Judge shall designate the Division or Divisions of the Circuit Court that shall be the Probate Division.

#### 1.3 Family Court

The Presiding Judge shall designate the Division or Divisions of the Circuit Court that shall be the Family Court and, if more than one Division is designated, the Presiding Judge shall designate the Administrative Judge thereof.

### 2. Hours and Terms of Court.

- 2.1 Hours of Court.
- 2.2 Terms of Court.
- 2.3 Law Days.
- 2.4 Particular Matters on Particular Days.

### 3. Pleadings.

- 3.1 Caption.
- 3.2 Style.

### 4. Filing of Cases.

#### 4.1 Criminal Cases.

##### 4.1.A - Filing of Documents

Search warrants may be issued by any judge. All search warrant documents, including returns thereof and inventories, issued by a judge of this Circuit shall be filed with, indexed, and maintained by the Circuit Clerk. The Circuit Clerk's Office shall immediately open a file for that warrant.

#### 4.1.B - Inspection and Copying

The Circuit Clerk shall not permit inspection and copying of documents supporting the issuance of a search warrant for which a return has not been filed, without the express consent of the issuing judge. After the filing of a return to a search warrant, the Circuit Clerk may permit inspection and copying of such documents without such consent.

#### 4.2 Civil Cases.

##### 4.2.A – Appointment of Special Process Servers

1. The Circuit Clerk may appoint a natural person of lawful age other than the Sheriff to serve process in any case.
2. Except as provided in Missouri Supreme Court Rule 54.01(b)(2), any party seeking to obtain service of process through means other than the Sheriff shall file a written motion requesting appointment of a named individual and stating that the individual to be named is over 18 years of age and is not a party to the action. The motion shall be accompanied by a proposed Order approving the individual to serve process. In the alternative, requests may be made on a "Request for Appointment of Process Server" form which may be obtained from the office of the Circuit Clerk.
3. Order appointing a person other than the Sheriff to serve process shall be in compliance with other applicable provisions of law and are made at the risk of the requesting party.
4. This appointment as Special Process Server does not include the authorization to carry a concealed weapon.

#### 4.3 Probate Cases.

#### 4.4 Juvenile Cases.

#### 4.5 Small Claims Cases.

#### 4.6 Municipal Cases.

#### 4.7 Facsimile Filing and Service

This rule is promulgated under the authority conferred by Supreme Court Operating Rule 6.

##### A. Facsimile Filing Authorized.

1. Any Circuit Clerk's office, including offices of the probate and juvenile divisions of the Circuit Court, which maintains a plain paper facsimile machine, will permit the filing of pleadings and documents by facsimile transmission. Facsimile filings may not be sent to the Court; they must be transmitted to a facsimile machine maintained by the Circuit Clerk.
2. The Clerk's facsimile machine shall be available to receive transmissions 24 hours a day, 7 days a week, provided that this shall not prevent the Clerk from sending outgoing facsimile transmissions or providing normal repair and maintenance for the machine.



3. Any document filed by facsimile transmission will have the same effect as the filing of the original document, regardless of requirements of verification or acknowledgment. No pleading initiating an action or requiring an accompanying filing fee shall be filed by facsimile transmission, unless the clerk's office has the capability to accept such fee via EFT, debit, or credit card.
4. Facsimile filings received at the court before 5:00 p.m. on a regular workday are deemed filed as of that day. Facsimile filings received after 5:00 p.m. are deemed filed on the next regular court workday. Time of receipt is determined by the court's facsimile machine.
5. No document in excess of 15 pages, including attachments, shall be transmitted by facsimile filing. Documents may not be split into multiple transmissions to avoid page limitations. If a document is to be filed in multiple matters, then the document must be transmitted once for each file.
6. Risk of loss in transmission, receipt, or illegibility is upon the sender. If the document is not received by the clerk, or if it is illegible, then it is deemed filed only to the extent it is legible.
7. The person submitting a pleading by facsimile transmission shall retain the original and make it available for inspection upon order of the Court until the matter is finally disposed and all opportunities for post-judgment relief are exhausted.
8. Sender shall establish an account with the Court Clerk's office to pay for the cost of the facsimile at the rate of up to 10 cents per page, minimum of up to 25 cents per transmission. Fax must be accompanied by Clerk's standardized cover sheet with required information.
9. Any document attempted to be filed in violation of this or any other Rule will not be accepted for filing.
10. Filing Documents in the Probate Division:

The following types of pleadings may be filed directly in the Probate Division by facsimile transmission: applications for continuances of the due dates for filing bonds, inventories, settlements, and auditors' exception letters; applications for continuances of any adversary probate or civil proceeding pending in the Probate Division; petitions and motions in adversary probate proceedings and ex parte petitions and motions relating to non-adversary probate administrative matters, together with proposed orders.

The following filings will NOT be accepted in the Probate Division by facsimile transmission: annual status reports, applications for letters, inventories, reports of sale of real property, and settlements (including documents relating thereto) in decedent, guardianship and conservatorship estates. No pleading initiating an action or requiring a filing fee shall be filed by facsimile transmission.

- B. Transmissions by the Court. Court orders, judgments, decrees, or other communications may be transmitted to the clerks of the various divisions or others by facsimile transmission. They shall have the same effect as if they were the original executed by the Court.

C. Service by Facsimile Transmission.

1. Compliance with Missouri Supreme Court Rule 43.01 is required.
2. Any attorney who maintains a facsimile machine shall make it available to receive transmissions 24 hours a day, 7 days a week, provided that this shall not prevent the attorney from sending outgoing facsimile transmissions or providing normal repair and maintenance for the machine.

D. Effect of Facsimile Signature. If a signature is required, a facsimile of the signature will suffice.

4.8 - Emergency Filings with on-call Judges by Electronic Transmission

Pursuant to Missouri Supreme Court Rules 20.04 (h) and 43.02(c), search warrants and complaints and affidavits in support thereof; arrest warrants and affidavits, complaints and indictments in support thereof; ex parte orders and petitions and affidavits in support thereof; mental health/drug and alcohol commitments and petitions in support thereof and detention and protective custody orders and petitions in support thereof may be filed with on-call judges by electronic transmissions on weekends, holidays, and after 5:00 p.m. on weekdays and at other times when a judge is unavailable.

Any such paper so filed shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit. A facsimile signature shall have the same effect as an original signature. The person filing such paper by electronic transmission shall also file the original with the court.

5. **Fees and Costs.**

- 5.1 Filing Fee and Cost Deposit.
- 5.2 Costs.
- 5.3 Witness Fees.
- 5.4 Waiver of Fees.
- 5.5 Motion for Security.

6. **Assignment of Judges, Cases, and Transfer of Cases.**

- 6.1 Assignment to Associate Circuit Judges.
  - 6.1.1 By Local Court Rule or Order.

a. All cases filed before or assigned herein to an Associate Circuit Judge shall be filed with the Circuit Clerk and assigned by such Clerk at the time of filing among the Associate Circuit Judges equally by category or type of action in a random fashion designed to provide for equal distribution of responsibility.

b. The following classes of cases are assigned to the Associate Circuit Judges and shall be filed with the Circuit Clerk:

- (1) All actions in the exclusive jurisdiction of an Associate Circuit Judge, including but not limited to:

- (a) Rent and Possession actions (535.020).

- (b) Unlawful Detainer actions (534.060).
- (c) Chapter 517 actions (517.011).
- (2) All Misdemeanor and Infraction Informations.
- (3) All Felony Complaints.
- (4) All municipal ordinance violation charges for which a municipal judge is not provided.
- (5) All appeals for a trial de novo from the following:
  - (a) A Municipal Court, including cases in which an Associate Circuit Judge or Circuit Judge acts in a municipal ordinance violation case.
  - (b) A Small Claims Court.
  - (c) In a case originally filed before an Associate Circuit Judge.
- (6) All appeals from a decision of the Director of Revenue under Chapters 301 and 303, RSMo.
- (7) Applications for Writs of Habeas Corpus for the custody of children.

c. In addition, other cases which are in the jurisdiction of an Associate Circuit Judge, and in which the Petition or Counterclaim states that the request for judgment for actual and punitive damages, in the aggregate, will not exceed \$25,000 on any Count, may be filed with the Circuit Clerk and are assigned to an Associate Circuit Judge. If the allegation does not appear, such Petitions must be filed with the Circuit Clerk for assignment to a Circuit Judge.

d. In addition, all appeals of orders in which a party is entitled to a trial de novo are assigned to an Associate Circuit Judge.

#### 6.1.2 Special Assignment.

#### 6.2 Assignment to Circuit Judges.

All actions not mentioned otherwise in this rule shall be filed with the Circuit Clerk and assigned to individual divisions of this Court by the Circuit Clerk at time of filing in a random fashion by category or type of action in a random fashion designed to provide for distribution of responsibility. The assignment of Civil actions and Criminal actions shall be designated by Administrative Order Regarding Assignment of Cases adopted by the Court En Banc from time-to-time and signed by the Presiding Judge.

6.3 Certification to Circuit Division.

6.4 Trial De Novo.

6.5 Disqualification of Judge.

6.5.1 Transfer of Cases upon Change of Judge

The Circuit Clerk shall randomly reassign cases, upon recusal or change of judge granted, in a manner to maintain the distribution of assignments provided in these rules and current existing administrative orders.

If all Associate Circuit Judges are unable to act in a case originally filed with the Circuit Clerk, the Circuit Clerk shall randomly assign and reassign the case among Circuit Judges without the necessity of Presiding Judge action. Likewise, the Circuit Clerk shall randomly reassign to Associate Circuit Judges, cases originally filed with the Circuit Clerk in which all Circuit Judges are unable to act. If all Circuit Judges and Associate Circuit Judges are unable to act, the case should be referred to the Presiding Judge.

6.5.2 - Applications for Change of Judge filed in Division 25 that are granted, shall remain in Division 25 but will be heard by a different Judge.

6.6 Absence of Judge.

6.6.1 Acting for Another Judge

Any Associate or Circuit Judge may act in a case assigned to another Judge except cases in which, by statute, only Associate Judges may act. This does not include cases pending in the Probate Division. However, temporary restraining orders may be issued by any Circuit Judge or Associate Circuit Judge in a case assigned to any other Judge.

6.7 Absence of Presiding Judge. (See Local Rule 100.1.1.1)

6.8 Probate Court

Cases within the exclusive jurisdiction of a Probate Judge or of the Probate Division shall be filed with the Probate Clerk and are assigned to the Probate Division. In addition, the following actions are assigned to the Probate Division and shall be filed with the Probate Clerk:

- a. All actions concerning trusts and trustees under Chapter 456, RSMo., and pertaining to the administration of a testamentary or inter vivos trust.
- b. All actions concerning escheats under Chapter 470, RSMo.

6.9 Family Court

All actions within the exclusive jurisdiction of the Family Court under Section 487.080, RSMo., are assigned to the Family Court. Petitions for Judicial Review of orders by the Missouri Division of Child Support Enforcement for child support or modifying existing support orders are “actions for determination of support duties and for enforcement of support” under Section 487.080.1 (6) RSMo., and are in the exclusive jurisdiction of the Family Court.

a. Rule - Child Custody Education

- (1) In any action for Dissolution of Marriage, Legal Separation, Declaration of Invalidity, Declaration of Paternity, or modification thereof, involving minor unemancipated children, all parties and, where appropriate,

the minor unemancipated children, shall participate in a Court approved program designed to educate parents on the detrimental effect of parental conflict on children and how to avoid such conflict and the resulting negative effects.

(2) The management of any approved program shall cause to be filed with the Court a Certificate of Completion for each party who completes the program.

(3) Petitioner or movant shall complete the program and have a Certificate of Completion filed with the Court within thirty (30) days after filing the Petition for Dissolution of Marriage, Legal Separation, Declaration of Invalidity, Declaration of Paternity or Motion to Modify.

(4) Respondent shall complete the program and have a Certificate of Completion filed with the Court within thirty (30) days after service of the Petition for Dissolution of Marriage, Legal Separation, Declaration of Invalidity, Declaration of Paternity or Motion to Modify.

(5) For good cause, the Court may waive the requirements of this Rule for any party.

(6) No Judgment shall be entered in the case until the Certificate of Completion of each non-defaulting party has been filed with the Court.

(7) Failure of any party to comply with this Rule shall warrant imposition of sanctions upon the request of any party or on the Court's own motion.

b. Circuit Clerk Duties

(1) The Circuit Clerk shall maintain, and post, a list of qualified and approved educational programs. Upon the filing of a case listed above, if the petitioner is pro se, the Circuit Clerk shall give a copy of this rule and list of approved programs to the petitioner. The Clerk shall make a docket entry to reflect the giving of the notice. When the petitioner is represented by counsel, the Petition shall state that the petitioner has received notice of this rule and a list of approved educational programs.

(2) The Circuit Clerk shall attach to the service copy for the respondent a copy of this rule with the approved list of educational programs. A docket entry shall be made to reflect the giving of notice.

(3) If service is waived, or the case has joint petitioners, the attorney shall inform the parties of this rule and so state in the petition. If the parties are pro se, the clerk shall give notice and make a docket entry to reflect the giving of the notice.

c. Entry of Judgment Upon Affidavit - Requirements

(1) Final Judgments Entered When. Final orders or judgments in a proceeding for Dissolution of Marriage or Legal Separation, and actions for Declaration of Paternity or the modification of an existing judgment and decree may be entered upon the affidavit of either or both parties when:

(a) The female party is not pregnant; and

(b) There are no minor children of the parties or at least one of the parties is represented by counsel and the parties have entered into a written agreement determining custody and child support; and

(c) The adverse party has been served in a manner provided by Missouri Rules of Civil Procedure or has formally filed a verified entry of appearance; and

(d) There is no genuine issue as to any material fact; and

(e) There is no marital property or debt to be divided or allocated or the parties have entered into a written agreement for the division of marital property and allocation of marital debt.

(2) Affidavit Filing. If one party desires to submit the matter for entry of final judgment upon an affidavit, the submitting party shall file an affidavit on the following court-approved forms:

(a) Form 1 if a dissolution action with no children involved;

(b) Form 2 if a dissolution action involving children;

(c) Form 3 if a paternity action;

(d) Form 4 if a motion to modify an existing judgment.

The parties shall also file a proposed judgment, any written agreement to be incorporated into the judgment, a Parenting Plan, parenting program completion certificate(s), and Form 14 if children are involved. The filing of such affidavit shall not be deemed to shorten any statutory waiting period required for the entry of a judgment and decree of dissolution or legal separation.

(3) Notice of Request. Notice of the intention of either party to request the entry of judgment upon affidavit must be given in writing (by personal service or regular mail) not less than 10 days prior to the filing of the affidavit, unless the request for judgment upon affidavit is by the agreement of the parties. Notice shall be given to legal counsel for the opposing party (or to the opposing party if they are not represented by counsel), with a copy of the notice being filed with the court. No notice shall be required to be given to a party who is in default unless otherwise required by law.

(4) Hearing Required When. The Court shall not be bound to enter a final judgment upon the affidavits of either or both parties but may require that a formal hearing be held to determine any or all issues presented by the pleadings. A request for judgment by affidavit that is not acted upon by the Court within 30 days of filing will be deemed to have been denied

d. Alternative Dispute Resolution Program

Pursuant to Supreme Court Rules 17 and 88.02 through 88.08, the Court adopts the following Alternative Dispute Resolution program.

In every contested case involving Family Law disputes including: Dissolution of Marriage, Family Access, Modification and Paternity cases, participation in a minimum of two hours of mediation or other alternative dispute resolution process pursuant to this local court rule is required, unless waived by the Court for good cause shown.

In all contested actions to which this rule applies, except a Motion for Family Access, both parties to the Dissolution or Motion to Modify or Paternity action shall attend a court-approved educational session to educate parties on the availability and advantages of alternative dispute resolution. Each party shall attend said program within sixty (60) days of the date of service of process, or of receipt of the Petition or Motion if service is waived. Upon completion of this program, the parties shall present a Certificate of Compliance to the Court at the scheduled Case Management Conference. Counsel for the parties shall discuss alternative dispute resolution with the clients as required by Supreme Court Rule 17.02(b).

At a Case Management Conference an inquiry will be made as to the status of the case and appropriateness for referral of the case to mediation or other alternative dispute resolution process.

#### Policies, Procedures and Qualifications

The Family Court Administrator shall prepare and publish a policy and procedure manual that sets out the qualifications and educational requirements for the practitioners of the ADR processes approved in this Circuit.

The Family Court Administrative Judge shall appoint a standing ADR committee to establish and review the policies, procedures and qualifications.

The policies and procedures shall be reviewed at a minimum every three (3) years by the Family Court Administrative Judge to determine if changes are necessary. The policies and procedures may be amended at any time with at least twenty days (20) public notice and public posting of the proposed changes and an opportunity for public input.

#### Alternative Dispute Resolution Methods available, but not limited to:

##### (1) Early Neutral Evaluation

A process designed to bring parties of civil litigation and their counsel together in the early pre-trial period to present issues and case summaries before and receive a non-binding assessment from an experienced neutral

evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

(2) Mediation

A non-binding process involving a neutral mediator who acts as a facilitator to assist the parties to craft a mutually acceptable resolution.

(3) Arbitration

An adjudicative process by which a neutral person or persons decide the rights and obligation of the parties. It may be consensual, mandatory, non-binding, or binding, in accordance with Supreme Court Rule 17.06(c).

(4) Mediation/Arbitration

Dispute resolution process where parties attempt to reach an agreement with the assistance of a third party neutral. If an agreement is not reached, the process moves to arbitration with the neutral becoming the arbitrator with decision-making authority as set out in Rule 17.06(c).

(5) Collaborative Law

Collaborative Law is a process in which the parties retain specially trained counsel who, along with the parties, commit in writing to use their best efforts and to make a good-faith effort to reach a principled, negotiated settlement. The parties and their counsel shall not resort to judicial intervention except to have the Court approve the settlement agreement, and sign the orders required by law to effectuate the agreement of the parties as the Court determines appropriate. Through the use of four-way meetings between the parties and their counsel, the participants shall focus on problem solving by identifying the interests of both clients, gathering sufficient information to insure that decisions are made with full knowledge, creating a full range of options, and then choosing the option that best meet the needs of the parties. The parties' counsel may not serve as litigation counsel, except to ask the Court to approve the settlement agreement.

(6) Parenting Coordinator

An impartial third party, qualified as set out in the ADR Policy and Procedure Manual and appointed by the Court, to assist parties in resolving issues and deciding disputed issues as defined in the Policy and Procedure Manual that relate to parenting and other family issues, in any action for Dissolution of Marriage, Legal Separation, Paternity, or Guardianship where a minor child is involved and where the Court finds the parties demonstrate an ongoing pattern of one or more of the following:



- a. Litigation
- b. Anger and distrust
- c. Verbal abuse
- d. Physical aggression or threats of physical aggression
- e. Difficulty in communicating about or cooperating in the care of a child
- f. Conditions that, in the discretion of the Court, warrant the appointment of a parenting coordinator.

#### (7) Therapeutic Family Mediation

Therapeutic Family Mediation is a model of family mediation that combines traditional mediation strategies and approaches with family therapy. Therapeutic Family Mediation is holistic in nature and takes into account a much broader range of issues than traditional family mediation. Issues addressed may include family history, communication dynamics, specific family challenges, and the unique contributions of culture, gender, diversity, and socio-economic influences. Individuals conducting Therapeutic Family Mediation should have a minimum of forty (40) hours of family mediation training and an advanced degree in counseling and or family therapy.

#### 6.10 Condemnation Exceptions

Each tract to which an exception is filed shall be considered a separate case for the purpose of these rules relating to assignment and distribution of cases.

#### 6.11 Municipal Jury Trial Cases Will be Assigned to a Municipal Judge for Trial

Upon receipt of a request for jury trial, a case relating to a violation of one or more municipal ordinances of the city of Springfield may, at the discretion of the Presiding Judge, be assigned to a judge of the Springfield Municipal Division of the 31st Judicial Circuit for all pretrial matters and trial by jury.

The Circuit Clerk shall maintain a jury docket for each judge of the Springfield Municipal Division of the 31st Judicial Circuit. The Circuit Clerk shall coordinate with the judges of the Springfield Municipal Division and the judges of the Circuit and Associate Circuit Divisions to arrange courtrooms and dates for the jury trials presided over by the judges of the Springfield Municipal Division.

#### 6.12 - Drug Court

The Court establishes a Drug Court pursuant to RSMo. 478.001. The Drug Court will be designated as the Court Reporting Intensive Supervision Program. (hereinafter referred to as CRISP)

The CRISP Court includes the following tracks:

- Criminal: Drug Court – CRISP 1;
- Intensive Supervision Court – CRISP 2;
- Mental Health Court – CRISP 3;

DWI Court – CRISP 4;  
Mothers Choosing Change Court – CRISP 5.  
Family and Juvenile: Family Dependency Treatment Court and Juvenile Drug Court.

Drug Court operating rules will be maintained in a Policy and Procedure Manual.

7. **Withdrawals of Papers from Clerk's Office.**

- 7.1 When Allowed.
- 7.2 Duplicating Policy.

8. **Publication of Dockets.**

- 8.1 Trial Docket.
- 8.2 Dismissal Docket.

9. **Courtrooms.**

- 9.1 Assignment of Courtroom.
- 9.2 Place of Hearing.
- 9.3 Use of Counsel Table.
- 9.4 Courtroom Decorum and Dress.
- 9.5 Who Is Permitted Within Bar.
- 9.6 Cell Phone Usage
  - 9.6.1 Cell phones are permitted in the Judicial Court Facility building.
  - 9.6.2 Cell phones may be used in the hallways and business offices of the Judicial Court Facility building.
  - 9.6.3 Cell phone usage within the courtrooms is prohibited, except with permission of the Court. Violation of this prohibition will result in the cell phone being seized by the Bailiff and returned at the discretion of the Court.
  - 9.6.4 Cell phones may not be used by jurors while deliberating the verdict of a case.

10. **Court Reporters and Compensation for Same.**

11. **Recording of Judicial Proceedings.**

- 11.1 Audio Recording and Video Recording

Subject to Supreme Court Operating Rule 20 and Supreme Court Administrative Rule 16, audio recording or video recording in any area of the Judicial Court Facility building is not permitted, except by prior permission of the Presiding Judge.

- 1. The Presiding Judge shall determine the scope and manner of any recording.
- 2. Pursuant to Chapter 610 RSMo., requests for permission to record can only be permitted in open meetings as determined by the Presiding Judge.
- 3. This rule does not apply to the Sheriff's office, Prosecuting Attorney's office and the Circuit Clerk's office or any area exempted from this rule by the Presiding Judge.

- 12. **Monies Paid Into Court.**
  - 12.1 Bond in Civil Cases.
- 13. **Communications With Court.**
  - 13.1 Oral Communications With the Court.
  - 13.2 Written Communications With the Court.

## **GENERAL RULES**

- 21. **Attorneys.**
  - 21.1 Resolution of Conflicting Trial Settings.
  - 21.2 Entries of Appearance.
  - 21.3 Conduct of Attorneys.
  - 21.4 Withdrawal of Attorneys.

Motions for permission to withdraw shall include the last known name and address of the client, and notice of hearing thereon shall be given to the client and all parties. Notice on a motion to withdraw as attorney for a defendant in a criminal case shall also instruct the defendant to appear in person at the hearing, or suffer the possible issuance of a capias warrant for defendant's arrest.
  - 21.5 Failure of Attorney to Answer Docket Call.
  - 21.6 Appointment of Attorneys.
  - 21.7 Agreement of Attorneys.
  - 21.8 Advice to Clients and Witnesses of Courtroom Procedures.
- 22. **Appointment of Guardian Ad Litem.**
- 23. **Transcripts.**
- 24. **Exhibits.**

## **PRETRIAL MATTERS**

- 32. **Discovery.**
  - 32.1 Use of Discovery and Certification to Circuit Division.

Notice of hearing on a discovery dispute shall not be given, unless a good faith attempt at an informal resolution of the dispute has been unsuccessful.
  - 32.2 Interrogatories.

Standard or "pattern" interrogatories may be approved by order of the Circuit Court for use in certain types of cases. Those interrogatories as approved will be placed on and may be accessed through "Your Missouri Courts, the Judicial Branch" website ([www.courts.state.mo.us](http://www.courts.state.mo.us)) "31<sup>st</sup> Judicial Circuit." No objection to the standard interrogatories will be considered by the court unless accompanied by specific suggestions filed in support of the objection.
  - 32.3 Depositions.

- 32.4 Motions for Sanctions.
- 32.5 Criminal Discovery.

33. **Pretrial Motions.**

- 33.1 Hearing Dates.
  - 33.1.A. Routine Motions

Motions which will not require more than five (5) minutes for presentation may be noticed for hearing as a routine motion. Routine motions may be heard Tuesday, Wednesday, or Thursday of each week at 9:00 a.m., or as otherwise scheduled by the Court. All other motions and those designated for special setting will be set at a special time by scheduling with the assigned judge's clerk. The Family Court Commissioners will hear routine motions from 8:30 a.m. until 9:00 a.m. on Tuesday, Wednesday and Thursday mornings.

33.2.A Motions to Dismiss

Motions to Dismiss should be accompanied by written legal suggestions. Motions to Dismiss not accompanied by written legal suggestions will be ruled without oral argument.

- 33.2 Briefs in Support of Motions, When Required.
- 33.3 Oral Arguments - When Desired and How Requested.
- 33.4 Motions In Limine.

34. **Continuances.** (No local rule, compliance with Missouri Supreme Court Rule 65 required)

- 34.1 Civil Cases.
- 34.2 Criminal Cases.

35. **Pretrial Conferences.**

36. **Setting Cases for Trial** (See Rule 67.10).

- 36.1 Request for Trial.

Setting requests for trial should be addressed to the assigned judge in writing, with a copy to all interested attorneys and unrepresented parties.

- 36.2 Date of Calendar Call.
- 36.3 Preparation of Calendar.
- 36.4 Calendar Call.
- 36.5 Removal and Inactive Calendar.
- 36.6 Revision of and Removal from Prepared Calendar.
- 36.7 Special Assignments.

37. **Dismissals.**

- 37.1 Dismissal Docket.
- 37.2 Reinstatement of Cause.

## **SETTLEMENT AND DEFAULT**

41. **Settlement.**

41.1 Notice of Settlement.

The Court and the Division Clerk shall be notified promptly of a case that is settled after it has been set for trial.

42. **Default.**

**TRIALS**

51. **Court-Tried Cases.**

51.1 Default and Uncontested Matters.

51.2 Contested Matters.

51.3 Preparation of Findings of Fact and Conclusions of Law.

52. **Selection of Jury.**

52.1 Jury Questionnaires.

53. **Jury Trials.**

53.1 Instructions.

53.2 Closing Arguments.

54. **Judgment Entry.**

54.1 Contested Cases.

54.2 Default or Uncontested Cases.

**RULES RELATING TO PARTICULAR ACTIONS**

61. **Adoption.**

61.1 Filing Requirements.

61.2 Home Study.

62. **Drivers' Cases.**

62.1 Applications for Hardship Driving Privileges.

62.2 Petitions for Review.

62.3 Breathalyzer Test.

63. **Associate Division Cases.**

64. **Cases Arising under Chapters 207 and 208, RSMo 1978** (Commonly Known as Title IV-D and H.B. 601 Actions).

65. **Civil Commitment.**

66. **Condemnation.**

67. **Criminal Cases.**

67.1 Pretrial Release.

- 67.1.1 Motions to Set Bond and for Bond Reduction.
    - 67.1.2 Deposit of Operator's License.
  - 67.2 Preliminary Hearing.
  - 67.3 Grand Jury.
  - 67.4 Attorneys.
  - 67.5 Arraignments.
    - 67.5.1 In General.
    - 67.5.2 Dates.
  - 67.6 Discovery.
  - 67.7 Motions.
  - 67.8 Plea Bargaining.
  - 67.9 Guilty Plea.
    - 67.9.1 Where Entered.
    - 67.9.2 Petition to Enter a Plea of Guilty.
  - 67.10 Calendar.
  - 67.11 Probation and Parole.
- 68. **Dissolution of Marriage.** (See Local Rule 6.9)
    - 68.1 Filing Requirements.
    - 68.2 Separation Agreement.
    - 68.3 Forms of Decree.
    - 68.4 Filing of Financial Statements.
    - 68.5 Modification of Decree.
  - 69. **Municipal Division.**
  - 70. **Partition.**
  - 71. **Administrative Reviews.**
  - 72. **Probate.**
  - 73. **Small Claims.**
  - 74. **Trust Estates.**
    - 74.1 Inventory.
    - 74.2 Reports.
    - 74.3 Record.
    - 74.4 Audit.

## **POSTTRIAL**

- 81. **Execution.**
- 82. **Garnishment.**

83. **Judicial Sales.**

**INTERNAL ORGANIZATION**

100.

100.1 Presiding Judge.

100.1.1.0 Election.

The Presiding Judge will be elected for a two-year term on the first Wednesday after Labor Day in odd numbered years. The Presiding Judge will assume office on January 1 of the following even numbered year.

100.1.1.1 Absence of Presiding Judge

During a vacancy in office and in the absence or disability of the Presiding Judge, the Circuit Judge in attendance with seniority in office as a Circuit Judge shall perform the administrative functions of the Presiding Judge.

100.1.1.2 Removal of Presiding Judge

A Presiding Judge may be removed from that office by the vote of two-thirds of the remaining Judges at a meeting called by at least three Judges, after first giving at least five days' written notice to the Presiding Judge and all other Judges of the meeting and the cause or causes for removal. A quorum for such a meeting is two-thirds of the remaining Judges. The Presiding Judge may not be removed unless an opportunity for a hearing on the causes is first afforded.

100.1.1.3 Vacancy

A vacancy in the Office of Presiding Judge shall be filled by election as soon as possible.

100.1.2 Duties of Presiding Judge.

100.1.3 Dispute Resolution – Procedure.

100.2 Local Court Rules.

100.2.1 Formulation.

100.2.2 Publication.

100.3 Statutory Funds

100.3.1 Special 31<sup>st</sup> Judicial Fund

Pursuant to § 488.426 RSMo. the 31<sup>st</sup> Judicial Circuit shall assess a surcharge of \$15.00 upon the filing of each civil case. A deposit of the surcharge with the Clerk of the Court shall be required upon the filing of each civil case. This surcharge shall not apply to any proceedings when costs are waived or are to be paid by the county or state or any city.

The Court En Banc does hereby designate the Greene County Circuit Clerk as treasurer of this fund. If the treasurer is someone other than the Circuit Clerk, the moneys collected pursuant to this section shall be paid over by the Circuit Clerk to the treasurer of the fund periodically, but no less frequently than monthly. The treasurer shall maintain the fund in a special interest-bearing account.

The fund shall be expended and applied under the direction of the Greene County Circuit Court En Banc for any lawful purpose as set forth in § 488.429 RSMo. The Court En Banc shall seek the advice and counsel of the Law Library Committee for any expenditures that may be used for the maintenance and upkeep of the law library.

#### 100.3.1.1 Law Library Committee

The law library shall be governed by a committee of three members of the bar in good standing, and be under the supervision of the Presiding Judge or his designee. The Presiding Judge shall appoint the members of the committee and designate one member to serve as chairperson. Appointments shall be announced at the first Court En Banc meeting in January, and written notification of such appointments shall be given to the president of the Springfield Metropolitan Bar Association and a copy of the notice filed with the Circuit Clerk.

The committee members shall serve for a term of one year, or until their successors are appointed. Any member may be reappointed to successive terms. Any committee member, who wishes to resign mid-term, shall so advise the Presiding Judge in writing. The Presiding Judge may appoint a new member to serve the remainder of the vacated term, or may wait until the next annual date for appointment.

The committee, with the approval of the Greene County Circuit Court En Banc, shall have authority to make decisions regarding the acquisition of books, materials, and services for the library and provide rules for the operation of the library. A vote of two of the three members shall be sufficient to make a recommendation to the Presiding Judge on behalf of the Court. Any member of the committee may make a short written statement either for or against a recommended acquisition. The committee shall accept and consider recommendations from members of the bar or the judiciary. Such recommendations should be in writing and presented to the members of the committee.

The committee shall meet as needed and shall keep a record of any action taken. The committee shall review the income and expenses of the library on a regular basis. The committee is authorized to maintain a separate account from which to manage the day-to-day operations of the library and to pay the necessary expenses. It is anticipated the committee will periodically request funds from the Special 31<sup>st</sup> Judicial Fund through the Court En Banc. The committee shall make a twice yearly report to the Court En Banc concerning the finances, acquisitions and long range plans for the law library. The committee may request time for presentation at any regularly scheduled Court En Banc meeting if prompt action is needed.



#### 100.3.2 Family Services and Justice Fund

Pursuant to § 488.2300 RSMo., in order to aid with the operation of the family court divisions and services provided by those divisions, the 31<sup>st</sup> Judicial Circuit shall charge and collect a surcharge upon all proceedings filed within the jurisdiction of the family court.

The surcharge shall not be charged when no court costs are otherwise required. The surcharge shall not be charged against the petitioner in actions filed pursuant to Chapter 455, RSMo., but may be charged against the respondent in such actions. The surcharge shall not be charged when costs are waived, and shall not be charged to a government agency, or to the state, county or any municipality. Other specific case types may be exempt from surcharge pursuant to statute.

All moneys in the Family Services and Justice Fund shall be expended first for the salaries of Family Court Commissioners, and the reimbursement of the State for Commissioners appointed pursuant to § 487.020 RSMo and to § 487.040 RSMo, and thereafter for any lawful purpose as set forth in § 488.2300(4) RSMo. Expenditures shall be made at the discretion of the Presiding Judge, or other judge as designated by the Court En Banc.

The surcharge shall be collected by the Circuit Clerk periodically, and no less frequently than monthly, delivered to the Greene County Auditor who shall act as treasurer and maintain the moneys in a designated interest bearing account. The moneys shall be expended by the treasurer upon the written request and authority of the Court En Banc as set forth herein.

### **RECORDS AND FILES**

#### 100.4 Storage of Records.

- 100.4.1 Reproduction, Preservation, Archival Storage and Disposal of Original Circuit Court Files (and Their Contents).
- 100.4.2 Reproduction and Preservation of Court Records Other than Files (and Their Contents).
- 100.4.3 Responsibility for Indexing and Preserving Court Reporter Notes.
- 100.4.4 Identification of Reporter's Notes.
- 100.4.5 Index.
- 100.4.6 Storage of Notes.
- 100.4.7 Notes of Substitute Reporters.
- 100.4.8 Storage of Notes upon Retirement, Termination or Death of Court Reporter.
- 100.4.9 Boxing and Storing of Old Notes.
- 100.4.10 Responsibility for Furnishing Materials and Space for Storage of Court Reporter Notes.
- 100.4.11 Procedure for Examination of Criminal Records.
- 100.4.12 Procedure for Expunging and Closing Criminal Records.

100.5 Clerk's Duties.

100.5.1 Monies Paid Into Court.

100.6 Selection of Veniremen.